

Application No. 09/830,708
Filed: April 30, 2001
Group Art Unit: 1651

REMARKS

1. This is in response to the Office Action mailed January 14, 2003. Claims 1-6 and 8-14 remain pending in this application.
2. On April 28, 2003, Applicant filed certified copies of the three Canadian applications on which priority is based.
3. Applicant requests reconsideration of the objections based on informalities in the application. Applicant has amended the specification on pages 10 and 12 as suggested by the Examiner.
4. Applicant requests reconsideration of the objections to the drawings. Proposed corrections to Figure 1 are enclosed. Amendments to pages 19 and 20 should now make the figures acceptable.
5. Applicant requests reconsideration of the rejections under 35 USC 112.
 - a. The color of the substrate has been amended to "white" in claims 4-6, 10 and 13. Applicant has amended claims 4-6 and 13 by deleting "generally". "Substantially pure" has been deleted from claim 10. Although there is support for gradations in white in the specification (see, for example, page 6, 3 lines from the

-12-

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Application No. 09/830,708
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bottom), Applicant agrees that "white" is sufficiently descriptive of these variations. In addition, variations in color of the substrate are compensated for by use of control samples.

b. Claim 11 has been amended by eliminating the term "predominantly".

c. Claim 12 has been amended to include a computer and a calibration plaque. (See page 20, bottom paragraph through top of page 22 for support.) The system is defined in claim 12 to comprise the components listed.

d. Claim 12, line 2, has been amended to read "sample".

6. Applicant requests reconsideration of the rejections under 35 USC 102.

a. Claim 1 has been amended to incorporate the limitations of claim 7, and claim 7 was cancelled. Thus, the process claims in the instant application relate to a process for determining the hue angle or chroma of a developed color. (Note that, as a result of this amendment, claims 2, 5, 6, and 8-10 were amended to maintain proper antecedent basis.)

b. The Shamsuddin references relate to assays not utilizing determination of hue angle or chroma. Thus, the method in the instant application, which relies on detection of these specific color characteristics, is significantly different from Shamsuddin.

Application No. 09/830,708
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c. The Krepinsky references rely on the use of a single wavelength for analysis. However, the instant application analyzes hue and/or chroma, which are based on a mathematical formula derived from the entire spectrum (i.e., multiple wavelengths) and provide more sensitive determinations than the single wavelength analysis of Krepinsky. Thus, the method of the instant application can be distinguished from Krepinsky.

d. The assay technique in Lee is based on determination of changes in color, while the assay in the instant application is based on determining absolute color. Thus the assay of the instant application is different from that of Lee.

7. Applicant requests reconsideration of the rejection under 35 USC 103. The Examiner has argued that it would have been obvious to use a spectrophotometer for a galactose oxidase determination, given the fact that Shamsuddin used a spectrophotometer for an enzymatic biotin-avidin assay.

However, claim 12 herein requires a combination of components not contemplated by Shamsuddin, namely the determination of a spectral characteristic based on the entire spectrum (selected from hue angle, chroma, saturation and lightness), use of a non-cellulosic substrate with a specific surface (porous and pebbled), use of a spectrophotometer capable of determining one of the above

Application No. 09/830,708
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Group Art Unit: 1651

spectral characteristics, plus use of a calibration plaque and computer. The combination of these components was not suggested by Shamsuddin, nor would such a combination be obvious to one skilled in the art.

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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